

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 09/753,844 Confirmation No.: 3228
Applicant(s): Meyers et al.
Filed: January 3, 2001
Art Unit: 2174
Examiner: Thanh T. Vu
Title: STATISTICAL METERING AND FILTERING OF
CONTENT VIA PIXEL-BASED METADATA

Docket No.: 042933/319992
Customer No.: 00826

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF UNDER 37 CFR § 1.193

This Reply Brief is filed in response to the Examiner's Answer mailed on April 4, 2008, the Examiner's Answer being in response to an Appeal Brief filed on January 9, 2008. This Reply Brief addresses various points raised by the Examiner's Answer.

7. *Argument*

As explained in the Appeal Brief at pages 5-14, claims 1, 3, 5 and 14-29 are patentably distinct from the cited references, taken individually or in combination. Accordingly, Appellant respectfully requests that the aforementioned rejections be reversed.

In reply to the Examiner's Answer, Appellant again submits that the cited references either alone or in combination, fail to teach or suggest the recited features of the claimed invention. The Examiner's Answer is, in large part, simply a repeat of the same arguments used in the Final Office Action in rejecting the currently pending claims. As such, Appellant respectfully submits that since the Appeal Brief pointed out the flaws in the Examiner's reasoning with respect to these rejections, no further discussion of the issues previously addressed need be presented herein. Rather, Appellant will direct the comments presented herein toward responding to the specific assertions from the *Response to Argument* section of the Examiner's Answer (pages 7-8).

10. ***Response to Argument***

The Examiner's Answer responded to some of Appellant's arguments of section 7 of the Appeal Brief. These arguments were set forth under subsection heading A in the Appeal Brief and are labeled accordingly herein for sake of consistency.

A. Claims 1, 3, 14, 15, 19-23 and 25-29 are patentable over Lynn, Humes, Swift and Crawford.

Independent claim 1 recites, "[a] system ... comprising," *inter alia*, "an integrated circuit ... processing ... image data, wherein for each of the plural pixels, said image data comprises ... payload data and ... metadata, wherein said payload data comprises content for the pixel and said metadata comprises a value selected from a predefined set of values which classifies the pixel independently from ... other pixels."

At pages 7-8 of the Examiner's Answer, the Examiner asserts that Lynn discloses the above feature of claim 1. Particularly, the Examiner again asserts that Lynn discloses "each of the plural pixels including payload data...wherein said payload data comprises content for the pixel" and again relies on previously cited portions of Lynn, namely, "col. 3, lines 30-35 and col. 4, lines 15-20" in support of this assertion. (See pg. 7 of the Examiner's Answer) Appellant again disagrees and submits that the Examiner is either misconstruing Lynn and/or giving Lynn credit for more than it actually teaches. Appellant notes, that the Examiner's Answer does not appear to provide any substantially new arguments but rather simply restates arguments that were set forth in the Final Office Action dated April 4, 2007 and in the Advisory Action dated July 6, 2007. Although the *Response to Argument* section of the Examiner's Answer slightly re-organizes arguments previously presented in prior Office Actions, such arguments were substantially addressed in the Appeal Brief.

The Examiner again asserts that "Lynn teaches pixel coordinate locations for prizes" and that [t]his indicates there are plural pixel coordinate locations ... and each of the plural pixels is relating to a prize", which the Examiner asserts corresponds to the claimed payload data. (See pgs. 7-8 of the Examiner's Answer) As an initial matter, Appellant notes that claim 1 recites "a display ... comprising a *plurality of pixels ... each of the plural pixels ... including payload data and metadata, wherein said payload data comprises content for the pixel and said metadata comprises a value selected from a predefined set of values which classifies the pixel*" Lynn,

alone or in combination with Humes, Swift and Crawford, in contrast to claim 1, does not teach or suggest that each of the plural pixels therein relate to a prize (alleged payload data). Rather, Lynn, at best, discloses that some of the pixels of the screen display therein relate to a winning pixel that is associated with a prize. (Col. 1, lines 43-60 of Lynn) If each of the pixels on the screen display of Lynn related to a winning pixel it would thwart the purpose of the Lynn's Internet marketing game because any pixel selected by a player would result in a winning pixel that is associated with a prize and this is simply not taught or suggested in Lynn, individually or in combination with Humes, Swift and Crawford. As such Lynn, individually or in combination, does not teach or suggest that "each of plural pixels" on the screen display therein ...

"include[es]" a prize (alleged payload data), as required by claim 1. At best, Lynn discloses that a player may move a cursor around the image and randomly select a pixel and that the x-y coordinate location of the pixel is compared against stored x-y coordinates for a winning pixel. Lynn explains that if the location of the selected pixel matches the pixel location randomly selected then the player wins a prize. (Col. 1, lines 51-64 of Lynn)

Contrary to the Examiner's assertion, column 3, lines 30-35 of Lynn which is relied upon by the Examiner explains that a "server connects to a database" to load information for the Internet Marketing Game upon startup such as "price information for prizes," "loading of prize status information" as well as pixel coordinate locations associated with the prizes and explains that "[t]his information is read in and parsed to individual memory locations." (See also Col. 3, lines 25-35 of Lynn) Given that Lynn discloses that the data associated with the winning pixels and information associated with the prizes are stored in a database of a server, Lynn alone or in combination, specifically teaches away from "each of the plural pixels ... including" the prize (alleged payload data), as required by claim 1. Lynn, at best, discloses that the prize information and winning pixel coordinates are stored in a database of a server, but not that this information is included in each of the pixels on the screen display therein. And there certainly is no mention, teaching or suggestion in Lynn, alone or in combination, that the prize, i.e., alleged "payload data comprises content for the pixel," as required by claim 1.

Additionally, the Examiner seems to ignore that claim 1 recites "each of the plural pixels ... including payload data." In contrast to claim 1, Lynn does not mention, teach or suggest that the pixels therein include the prize (alleged payload data) as required by claim 1. For instance, Lynn explains that the "winning pixel" may correspond to a "\$20 prize." (Col. 5, lines 40-43 of

Lynn) As such, Lynn does not disclose that each of the pixels on the screen display therein includes the prize (alleged payload data) such as \$20, which would be required by the Examiner's characterization of Lynn relative to claim 1. For at least this additional reason, the combination of Lynn, Humes, Swift and Crawford is deficient and does not teach or suggest all of the features of claim 1.

At page 8 of the Examiner's Answer, the Examiner asserts that "Lynn teaches metadata comprises a value selected from a predefined set of values which classify the pixel independently for other pixels" because "col. 1, lines 50-67, col. 3, lines 14-25, and col. 4, lines 10-24 [of] Lynn teaches each pixel coordinate locations relating to a prize stored separately from other pixel coordinate locations (i.e., non-winning pixel coordinate locations)". Appellant disagrees. Appellant again points out that claim 1 recites "*each of the plural pixels ... including* payload data ... and *metadata*, wherein ... said *metadata comprises a value selected from a predefined set of values which classifies the pixel* independently from other pixels." As noted above with respect to the cited portion of Lynn, relied upon by the Examiner, Lynn, at best discloses that "an x-y location of the pixel" selected by a player is compared against "stored x-y coordinates for winning pixels." (Col. 1, lines 56-59 of Lynn) Column 3, lines 25-36 of Lynn, at best, describes that these stored x-y locations for winning pixels are stored in a database of a server in "individual memory locations."

As such, even assuming for the sake of argument (an assertion with which Appellant expressly disagrees) that Lynn discloses that "each pixel coordinate locations relating to a prize is stored separately from other pixel coordinate locations", as asserted by the Examiner, the features of claim 1 are still not taught or suggested by Lynn, individually or in combination. Lynn, at best, discloses that winning pixels, and for that matter non-winning pixels, are stored external to the pixel in memory locations of a database of a server. However, nowhere in Lynn is there any mention, teaching or suggestion relating to each of the pixels on the screen display therein "*including ... metadata compris[ing] a value selected from a predefined set of values which classifies the pixel independently from the other pixels,*" as required by claim 1. In contrast to claim 1, Lynn, at best, discloses that any data classifying the pixel as a winning pixel and non-winning pixel is stored external to the each of the pixels therein and more particularly is stored in a database of a server. Claim 1 requires each of the pixels include metadata comprising a value which classifies the pixel. This feature of claim 1 is simply not taught or suggested by

Lynn, alone or in combination with Humes, Swift and Crawford and as such the combination is deficient for at least this additional reason. Furthermore, nowhere in Lynn is there any teaching or suggestion relating to selecting any value, from a set of values, that is included in each pixel to classify each pixel, as claimed.

Since claims 3, 14, 19 and 29 contain features that are analogous to, though not necessarily coextensive with, the features recited in claim 1, Appellant submits that independent claims 3, 14, 19 and 29 are patentable at least for reasons analogous to those submitted above, and in the Appeal Brief, for independent claim 1.

Claims 16 and 25, 5, 17, and 26 and 15, 18 and 27 as well as claims 20-24 and 28 depend either directly or indirectly from corresponding independent claims 1, 3, 14, 19 and 29 and thus include all the recitations of their corresponding independent claims. Therefore, dependent claims 16 and 25, 5, 17, and 26, 14, 15, 18 and 27 as well as claims 20-24 and 28 are patentable for at least the same reasons submitted above for independent claims 1, 3, 14, 19 and 29.

Appellant submits that the conclusory arguments by the Examiner on page 8 of the Examiner's answer asserting that the combination discloses "features of 'a filter for obscuring the content of only a plurality of pixels that has a metadata value that exceeds a discretionary threshold value without preventing the display of the content of the plurality of pixels that does not have a metadata value that exceeds the discretionary threshold value'" and "a filter for detecting the content of a plurality of pixels that has a metadata value that exceeds a discretionary threshold value" as well as "obscuring the content of image data" merely repeat substantially verbatim the same arguments set forth by the Examiner in the Final Office Action dated April 4, 2007 and the Advisory Action dated July 6, 2007 without providing any additional substantive explanation whatsoever. As such, Appellant submits that these arguments remain rebutted at least for the reasons set forth at pages 9-13 of the Appeal Brief.

Thus, for all the reasons above, as well as those provided in the Appeal Brief, Appellant respectfully submits that the rejections of all claims based on the combination of these references should be reversed.

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CONCLUSION

For at least the foregoing reasons, as well as those presented in the Appeal Brief, Appellant respectfully requests that the rejections be reversed.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Cory Davis".

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